

CHAPTER 15

FINANCIAL SUPPORT OF FAMILY MEMBERS

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CHAPTER 15

FINANCIAL SUPPORT OF FAMILY MEMBERS

15000. SCOPE This chapter establishes Marine Corps policy regarding the treatment of family members of Marines in need of financial support. This chapter is punitive in nature, and violations of this order are punishable under the UCMJ, and may subject the violator to adverse administrative action. The activity responsible for this chapter is the Legal Assistance Branch, Judge Advocate Division, Headquarters, U.S. Marine Corps (JAL) (703) 614-1266 / DSN 224-1266.

15001. POLICY

1. The Marine Corps will not serve as a haven for personnel who fail to provide adequate and continuous support to their family members. Marines shall comply fully with the provisions of separation agreements and court orders addressing the support of family members. Absent such agreements or court orders, and conditioned upon a complaint of nonsupport to a commanding officer, the support standards set forth in this chapter shall be enforced. For purposes of this chapter, the phrase "court orders" shall include administrative child support orders and their functional equivalents. For purposes of this chapter, the phrase "commanding officer" means a Special Court Martial Convening Authority or higher.

2. Preferably, the amount of support to be provided to family members should be established by a written agreement between the parties, or be adjudicated in the civilian courts. Nevertheless, because family support issues are closely aligned with readiness, morale, discipline, and the reputation of the service, mandatory interim financial support standards are needed. Assistance in obtaining written support agreements and court orders in these matters is available from local legal assistance offices.

3. Final divorce decrees and written agreements in which spousal support is not awarded or mentioned, or is affirmatively waived, eliminates the obligation to support spouses under this chapter.

4. The obligation to support a biological or adopted minor child under this chapter is not eliminated by a final court order, such as a decree of divorce, or a written agreement, unless the documents specifically negate the obligation to pay child support. The fact that a divorce decree is silent relative to support of a minor child does not effect the obligation of the Marine to provide support for the child under this chapter.

5. The support standards set forth in this chapter apply only to a Marine's spouse, minor biological children and minor adopted children. For purposes of this chapter, "minor" means less than 18 years of age. In addition, all children born in wedlock are presumed to be the biological children of the Marine and the Marine's spouse. The standards set forth herein do not extend to stepchildren or other DoD-recognized dependents of the Marine. There is no duty of support as between active duty military spouses without children. In addition, the application of these standards shall commence only after the commanding officer has received a complaint of nonsupport, and the commanding officer has issued a support order in substantial compliance with the form attached hereto at Figure 15-2.

15002. PUNITIVE PROVISIONS

1. Marines will not violate any of the following:

a. The financial dependent support provisions of a court order.

b. The financial support provisions of a written agreement addressing the issue of dependent support. (Note: a marital settlement agreement worksheet which is used to prepare an agreement does not constitute a written financial support agreement for purposes of this chapter) or

c. If neither a court order nor a written agreement exists, the interim financial support standards of Paragraph 15004, and orders issued thereunder by a commanding officer.

2. This paragraph is punitive in nature. Marines who fail to comply with this paragraph are subject to punishment under the UCMJ, as well as to adverse administrative action.

15003. COMPLAINTS OF INADEQUATE SUPPORT

1. All complaints alleging inadequate support of family members shall be directed to the commanding officer of the Marine concerned. All Marines who receive complaints of inadequate support shall immediately forward the complaint to the commanding officer, and advise the party making the complaint that the commanding officer is the appropriate authority to take action in the matter. In the absence of extraordinary circumstances, the commanding officer will meet with the Marine and take appropriate action under this chapter within 10 working days of receiving the complaint. If the Marine who is the subject of the complaint is not assigned to the command receiving the request for support, the commanding officer will forward it to the commanding officer having authority to take action, and will inform the complaining party of the action taken as soon as possible. If the commanding officer is unable to initiate action within 10 working days, the commanding officer shall so advise the party seeking support.

2. When a complaint alleging inadequate support of family members is received, the commanding officer will inform the Marine about the nature of the complaint and shall encourage the Marine to consult with a legal assistance attorney. After the Marine has had the opportunity to consult with counsel, the commanding officer will then meet with the Marine, and determine the content of an order or warning, if any, to be given to the Marine to foster compliance with this chapter.

3. In instances where a request for support is made for a child born out of wedlock, the Marine shall provide support under this chapter only when paternity is established by court or administrative order or formal written acknowledgement by the Marine. Prior to responding to paternity allegations, the Marine shall be directed to consult with a legal assistance attorney regarding the full consequences of an admission of paternity. Notably, some states hold that an admission of paternity creates a legal presumption that paternity is established, and that based upon such an admission, a court may order the payment of child support.

15004. INTERIM FINANCIAL SUPPORT STANDARDS

1. In cases where the amount of support has not been fixed by

court order or written agreement, and upon a complaint of nonsupport to a commanding officer by or on behalf of a family member entitled to support (as set forth in Paragraph 15001.5), interim support per supported family member shall be the greater of the fixed amount of support reflected in the center column of the chart below, or the pro-rated share of whatever BAH or OHA (Overseas Housing Allowance) to which the Marine is currently entitled, as shown in the chart below, per month. Note that BAH that is credited to the Marine for government housing, but is not actually paid in cash, is not counted for purposes of this chapter. Under no circumstances shall the total amount of support required exceed 1/3 of the Marine's gross military pay, per month. For purposes of this order, gross military pay is defined as the total of all military pay and allowances before taxes or any other deductions. The amount calculated under the chart below is presumed to be the correct amount of support to be paid to a family member. A Support Calculation Worksheet is provided at Figure 15-1.

Total Number of Family Members Entitled to Support	Minimum Amount Of Monthly Support per Requesting Family Member	Share of Monthly BAH/OHA per Requesting Family Member
1	\$350	1/2
2	\$286	1/3
3	\$233	1/4
4	\$200	1/5
5	\$174	1/6
6 or more	\$152	1/7 or etc.

2. In calculating the total number of family members entitled to support, the commanding officer shall count the complaining family member(s) and all other family members as defined in Paragraph 15001.5 that: a) the Marine is supporting under court order, written agreement, or order under this chapter (not party to the complaint of nonsupport); and b) minor biological or adopted children that reside with the Marine whom the Marine is supporting. For example, if the Marine is paying support for a child from a previous marriage, and the current spouse requests support under this chapter, there are two family members in need of support, and the Marine should be ordered to pay the spouse \$286.00 or 1/3 of his BAH, per month, whichever is greater (up to 1/3 of his gross military pay).

3. The Marine may request the commanding officer to deviate from the amount of spousal support required under Paragraph 15004.1. If the facts of the particular case are consistent with one of the reasons for modification as set forth in Paragraph 15005.4, the commanding officer may decrease or terminate spousal support to be paid, only after consulting with the appropriate staff judge advocate. However, except for situations described under Paragraph 15005.4d, support for a minor child shall not be decreased from the amount required in Paragraph 15004.1. Financial support established by a commanding officer under this chapter shall continue until such time as a written agreement is reached, a court order is obtained, or the commanding officer modifies or terminates the support order. This scale is not intended for use outside the Marine Corps or as part of any civilian judicial proceeding. Deviation from the amounts provided in Paragraph 15004.1 is not authorized except as provided in Paragraph 15005.4.

15005. MODIFICATION OF INTERIM FINANCIAL SUPPORT REQUIREMENTS

1. A commanding officer has discretion (but is not required) to reduce or eliminate the interim financial support standards under certain circumstances as listed in Paragraph 15005.4, only after consulting with the appropriate staff judge advocate. A commanding officer has no authority to reduce or eliminate the interim financial support standards in any situation not listed in Paragraph 15005.4. Note that while a commanding officer may reduce or in certain cases, completely eliminate a support requirement under this chapter, reduction of support below "BAH diff" may render the Marine ineligible for BAH under applicable regulations. See Department of Defense Financial Management Regulation (DoDFMR), Volume 7A, Paragraph 260406.B for guidance on BAH entitlement.

2. A commanding officer must be satisfied by a preponderance of the evidence that the underlying intent of this chapter, to provide adequate and continuous support to family members, would be furthered before he or she may reduce or eliminate the interim financial support standards established herein. Before granting relief, the commanding officer may attempt to contact the family member requesting support for whatever additional information may be necessary to make an informed decision on the matter.

3. The Marine has the burden of coming forward with sufficient information and documents (for example, receipts, tax returns, pay vouchers, court orders, etc.) to establish a basis for a commanding officer's action under this paragraph.

4. Situations warranting consideration of reduction or elimination of financial support requirements.

a. The gross income of the spouse exceeds the gross military pay of the Marine (including allowances). The income of the non-service member spouse will be based on his or her wages, before deductions are taken for taxes, voluntary allotments, and garnishments, together with income from all other sources, such as interest, dividends, and profits derived from property in that spouse's possession. This does not relieve the Marine from the requirement to provide financial support for his or her adopted or biological minor children.

b. Interim financial support has been provided to the spouse for a continuous and uninterrupted period of 12 months. A commanding officer may reduce or eliminate the interim financial support requirements to support a spouse if: i) the parties have been separated for 12 months or longer; and ii) the Marine has made the financial support required in Paragraph 15004 for the entire 12 months (including instances where the Marine has voluntarily complied with this Chapter in the absence of a complaint for support to a commanding officer); and iii) the Marine has not acted in any manner to avoid service of process or otherwise to prevent a court from ruling on the issue of support. This does not relieve the Marine from the requirement to provide financial support for his or her adopted or biological minor children.

c. The Marine has been the victim of a substantiated instance of abuse by a spouse seeking support. A commanding officer may reduce or eliminate the interim financial support requirements to support a spouse if an instance of abuse committed by the complaining spouse against the Marine has been substantiated by either a family advocacy case management team at Level II or higher, or a court as evidenced by a judgment amounting to a conviction, or by issuance of a permanent restraining order (or similar order) against the complaining spouse. This does not relieve the Marine from the requirement to provide financial support for his or her adopted or biological minor children.

d. The Marine is paying regular and recurring obligations (such as rent or consumer debts) of the family members requesting support of sufficient magnitude and duration as to justify a reduction or elimination of support specified herein. If the commanding officer elects to give credit for such payments, they should be limited to the extent that such payments do not benefit the Marine, and should continue for as long as support is paid under this chapter.

15006. FORM AND TIMING OF FINANCIAL SUPPORT PAYMENTS

1. Unless otherwise required by court order or by written financial support agreement, a financial support payment will be made directly to the family member in one of the following ways:

- a. Cash with receipts.
- b. Check.
- c. Money order.
- d. Electronic transfer.
- e. Voluntary allotment.

2. Unless otherwise required by a court order or by a written financial support agreement, a financial support payment shall be due on the first day of the month in which the financial support payment pertains.

Support Calculation Worksheet in the case of

_____, USMC

1. Enter the date the complaint was received: _____
(Refer the Marine to Legal Assistance)

2. Enter the total number of family members entitled
to support (2a-d): _____

INCLUDE ALL OF THE FOLLOWING:

- a. Non-military spouse requesting support: _____
- b. Biological or adopted minor children on
whose behalf financial support is
requested: _____
- c. Family members that reside with the Marine
that the Marine supports (i.e., spouse and
biological or adopted minor children): _____
- d. Family members that do not reside with the
Marine that the Marine supports (i.e., spouse
and biological or adopted minor children),
that the Marine already supports under prior
order or written agreement: _____

3. Enter the number of persons requesting support
from Lines 2a and 2b above: _____

Figure 15-1.--Support Calculation Worksheet

4. Locate the number from **Step 2** of this Worksheet on the left column of the USMC Support Table. Highlight the other two columns to the right of this number on the same line. Use this line for all support calculations in this case.

USMC SUPPORT TABLE

Total Number of Family Members Entitled to Support	Minimum Amount Of Monthly Support per Requesting Family Member	Share of Monthly BAH/OHA per Requesting Family Member
1	\$350	1/2
2	\$286	1/3
3	\$233	1/4
4	\$200	1/5
5	\$174	1/6
6 or more	\$152	1/7 or etc.

5. Multiply the number in **Step 3** of this Worksheet times the dollar figure in the center column of the USMC Support Table from the line that was selected in Step 4. Enter the amount:

\$ _____

6. If the Marine receives BAH, multiply the number in **Step 3** of this Worksheet times the fraction in the right column of the USMC Support Table from the line that was selected in Step 4. Multiply the adjusted fraction times the BAH received. Enter the share of BAH for the requesting family members:

\$ _____

Figure 15-1.--Support Calculation Worksheet

7. Select the larger dollar amounts from Steps 5 and 6. This is the amount of support presumed to be correct under the MCO. The total amount of support for all persons in Step 2 may not exceed 1/3 of the Marine's gross military pay.

\$ _____

8. The Marine may request reduction of the amount of support calculated under Step 7 only under limited circumstances. Reduction of support is entirely discretionary on the part of the commanding officer. See Paragraph 15005.4d for details.

9. After consulting with the appropriate staff judge advocate, should the commanding officer choose to deviate from the required amount pursuant to Paragraph 15005.4d for a reduction of support, enter the new amount of support due:

\$ _____

Figure 15-1.--Support Calculation Worksheet

From: Commanding Officer,
To:

Subj: ORDER OF SUPPORT

Ref: (a) MCO P5800.16C (LEGADMINMAN), Chapter 15

1. On _____, this Command received a complaint from _____, alleging that since that time you did not provide an amount of support sufficient for the needs of your family.
2. On _____, you were counseled regarding this matter, and your obligations under the reference. At that time, you were afforded the opportunity to request that the support requirements of the reference be modified, and to provide reasons therefor.
3. Since there is no support agreement or order regarding this matter, you are ordered, per the reference, to pay _____ the sum of \$_____ per month, on the first of each month, as support. Support payments will be made by _____. This order will remain in full force and effect until such a support agreement or judicial order is obtained, or unless sooner modified by this Command.